

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GREGORY A. FRITZ,

Petitioner,

v.

TIMOTHY GARRETT, *et al.*,

Respondents.

Case No. 3:23-cv-00241-ART-CLB

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Gregory A. Fritz, an individual incarcerated at Nevada's Lovelock Correctional Center. Fritz has filed an application to proceed *in forma pauperis* (ECF No. 5), a petition for writ of habeas corpus (ECF No. 6), and a motion for appointment of counsel (ECF No. 7).

The information provided by Fritz in his application to proceed *in forma pauperis* (ECF No. 5) shows that he is able to pay the filing fee for this action. The Court will, therefore, deny the application to proceed *in forma pauperis*, but will not set a deadline for Fritz to pay the \$5 filing fee until after appointed counsel appears for him.

State prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. The Court determines that the interests of justice call for appointment of counsel in this case. The Court will grant Fritz's motion for appointment of counsel and will

1 appoint the Federal Public Defender for the District of Nevada (FPD) to represent
2 him.

3 The Court has examined Fritz's petition pursuant to Rule 4 of the Rules
4 Governing Section 2254 Cases in the United States District Courts and
5 determines that it merits service upon the Respondents. The Court will order the
6 petition served upon the Respondents, and will direct the Respondents to appear,
7 but will not require any further action on the part of Respondents at this time.

8 It is therefore ordered that Petitioner's Application to Proceed *in Forma*
9 *Pauperis* (ECF No. 5) is denied.

10 It is further ordered that Petitioner's Motion for Appointment of Counsel
11 (ECF No. 7) is granted. The Federal Public Defender for the District of Nevada
12 (FPD) is appointed to represent the Petitioner. If the FPD is unable to represent
13 the Petitioner, because of a conflict of interest or any other reason, alternate
14 counsel will be appointed. Counsel will represent Petitioner in all federal court
15 proceedings relating to this matter, unless allowed to withdraw.

16 It is further ordered that the Clerk of the Court is directed to electronically
17 serve upon the FPD a copy of this order, together with a copy of the Petition for
18 Writ of Habeas Corpus (ECF No. 6).

19 It is further ordered that the FPD will have 30 days from the date of this
20 order to file a notice of appearance, or to indicate to the Court its inability to
21 represent Petitioner in this case.

22 It is further ordered that the Court will set a deadline for payment of the
23 filing fee after counsel appears for Petitioner.

24 It is further ordered that the Clerk of the Court is directed to add Aaron
25 Ford, Attorney General of the State of Nevada, as counsel for Respondents and to
26 provide Respondents an electronic copy of all items previously filed in this case
27 by regenerating the Notice of Electronic Filing to the office of the Attorney General
28 only.

1 It is further ordered that Respondents will have 30 days from the date of
2 this order to appear in this action. Respondents will not be required to respond
3 to the habeas petition at this time.

4 DATED THIS 21st day of July, 2023.

5 

6 ANNE R. TRAUM
7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28